

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

In re:

Nicholas J. Dowd

Debtor

Chapter 7

Case No. 20-30268-EDK

**TRUSTEE’S MOTION TO EMPLOY BK GLOBAL REAL ESTATE SERVICES
AND EXIT PREFERRED REALTY AS REAL ESTATE BROKERS**

To the Honorable Elizabeth D. Katz, U.S. Bankruptcy Judge:

Now comes David W. Ostrander, Chapter 7 Trustee in the above captioned case (“Trustee”), by his counsel, and requests that the Court authorize him to employ BK Global Real Estate Services (“BKRES”) and Exit Preferred Realty (“Exit”) as real estate brokers, on a commission fee basis, in order to market the residential real estate solely owned by the Debtor located at 897 Orchard Lane, Aspers, Pennsylvania (the “Property”), in expectation of working with the Secured Creditor to obtain consent for a “Consented Sale” a/k/a “short sale”. In support of this motion, the Trustee respectfully represents as follows:

1. The Debtor filed a Voluntary Chapter 7 Petition on May 1, 2020 (the “Petition Date”).
2. The first Meeting Of Creditors is scheduled for June 9, 2020.
3. On Schedule A/B – Property, the Debtor disclosed that he was the sole owner of the Property, a single family home, and listed its value as \$147,000. Further, the Debtor stated that a foreclosure sale of the Property was scheduled for May 4, 2020, but was unclear whether that date may have been postponed due to the “pandemic.” Finally, the Debtor stated that the value of \$147,000 was the “Zillow” value, but that he believed the value was likely much lower “due to issues with house.”
4. On his Statement Of Intention, the Debtor stated that he intended to surrender the Property.

5. In his Statement Of Financial Affairs, the Debtor stated that he last lived at the Property in April, 2019.
6. On Schedule D – Creditors Who Have Claims Secured By Property, the Debtor listed RoundPoint Mortgage Servicing Corp. (“RoundPoint”) as mortgagee for the Property, and that \$127,485 was owed to RoundPoint.
7. The Debtor has not claimed an exemption in the Property. The Debtor has elected to use the “federal” exemptions.
8. Upon information and belief, the 2019 assessed value of the Property is \$180,700.
9. On May 13, 2020, RoundPoint, through its attorneys, filed a motion for relief from stay stating that it was owed approximately \$136,805 as of May 5, 2020, and that no payments had been made since June, 2019.
10. The Trustee is investigating a sale of the Property which, based on the information available to the Trustee at this time, would likely be a “consented sale” a/k/a “short sale” of the Property.
11. BKRES and its affiliates have proprietary technology and a national team of experienced loan servicing specialists, asset managers, negotiators, trustee relation managers, real estate brokers and agents, closing specialists and attorneys with extensive experience in procuring the consent of mortgage lenders and servicers to sell over-encumbered properties and provide significant cash recoveries through its Consented Sale™ process.
12. Exit is a real estate agency with an office in Chambersburg, Pennsylvania, approximately 25 miles from the Property.
13. As compensation for their services BKRES and Exit would receive a commission in the amount of six percent (6%) of the gross sale price upon consummation of the sale of the Property, to be divided evenly between them. If a “buyer’s agent” was involved in the anticipated sale transaction, the 6% commission would be split evenly with BKRES, Exit, and the buyer’s agent, each receiving 2%.
14. The “consented sale” anticipates a sale price that would be less than the amount due to RoundPoint on its mortgage debt. As a result, the Trustee anticipates that

a sufficient “carve out” from the mortgage debt would be paid to the Bankruptcy Estate to pay administrative expenses and a meaningful dividend to unsecured creditors¹.

15. Both BKRES and Exit have been provided a copy of Rule 2014-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the District Of Massachusetts (“MLBR”) and are aware that the Court may allow compensation different from the compensation described herein, notwithstanding the allowance of this motion by the Court.

WHEREFORE, the Trustee requests that he be allowed to employ BKRES and Exit to market the Property pursuant to the terms and conditions set forth herein, and granting such other relief that is just and proper.

Dated: May 26, 2020

David W. Ostrander, Trustee

By: /s/ David W. Ostrander
David W. Ostrander, Esq., BBO#554004
Ostrander Law Office
36 Service Center Road, P.O. Box 1237
Northampton, MA 01061-1237
T: (413) 585-9300 F: (413) 585-9490
E: david@ostranderlaw.com

¹ The Debtor listed unsecured debts of approximately \$40,000. The deadline for filing claims has not yet been set.

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AFFIDAVIT OF PATRICK BUTLER

ON BEHALF OF BK GLOBAL REAL ESTATE SERVICES

1. I am employed by BK Global Real Estate Services ("BKRES") which is an entity duly licensed as a real estate brokerage by the State of Florida, and is located at 1095 Broken Sound Parkway, N.W., Suite 100, Boca Raton, FL 33487. I am broker-in-charge of BKRES and I am authorized by BKRES to submit this Affidavit on its behalf in support of the Trustee's motion to employ BKRES as broker in the above captioned case.
2. Neither I nor any member of my firm holds or represents any interest adverse to the estate of the above-named Debtor.
3. I am, and each member of my firm is, a "disinterested person" as that term is defined in 11 U.S.C. Section 101(14).
4. My and my firm's connections with the Debtor, any creditor, or other party in interest, their respective attorneys or accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee, are as follows: I was recently contacted by David W. Ostrander, Chapter 7 Trustee of the Debtor, who requested the services of BKRES to market the real estate located at 897 Orchard Lane, Aspers, Pennsylvania (the "Property"), for the Bankruptcy Estate.
5. Neither I nor any member of my firm is a relative of a judge of the U.S. Bankruptcy Court for the District of Massachusetts, nor a relative of the United States Trustee for said District.
6. I have not agreed to share with any person (except members of my firm) the compensation to be paid for the services rendered in this case, except as follows:

the requested 6% commission would be split evenly with Right Key Real Estate Services, and a "buyer's agent" if that situation arose.


7. I have not received a retainer in this case.
8. I shall amend this statement immediately upon my learning that (A) any of the within representations are incorrect or (B) there is any change of circumstance relating thereto.
9. I have reviewed the provisions of Rule 2016-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the District Of Massachusetts.

I declare under penalty of perjury that the foregoing is true and correct.

BK Global Real Estate Services

Dated:

By: _____


Patrick Butler
Broker In Charge
Direct: (561) 866-7155
Office: (855) 658-1254

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DECLARATION RE: ELECTRONIC FILING

I, Patrick Butler, hereby declare under penalty of perjury that all the information contained in my **AFFIDAVIT ON BEHALF OF BK GLOBAL REAL ESTATE SERVICES** (the "Document"), filed electronically, is true and correct. I understand that this DECLARATION is to be filed with the Clerk of Court electronically concurrently with the electronic filing of the Document. I understand that failure to file this DECLARATION may cause the Document to be struck and any request contained or relying thereon to be denied, without further notice.

I further understand that pursuant to Massachusetts Electronic Filing Local Rule (MEFLR) –7(a) all paper documents containing original signatures executed under the penalties of perjury and filed electronically with the Court are the Property of the bankruptcy estate and shall be maintained by the authorized CM/ECF Registered User for a period of five (5) years after the closing of the case.

Dated: 5/26/2020

Signed: 

Patrick Butler

UNITED STATES BANKRUPTCY COURT
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AFFIDAVIT OF ON BEHALF OF EXIT REALTY GROUP


1. I am a licensed real estate broker in the Commonwealth Of Pennsylvania and a broker with Exit Preferred Realty that has an office located at 1047 Lincoln Way, Chambersburg, PA 17201.
2. Neither I nor any member of my firm holds or represents any interest adverse to the estate of the above-named Debtor.
3. I am, and each member of my firm is, a “disinterested person” as that term is defined in 11 U.S.C. Section 101(14).
4. My and my firm’s connections with the Debtor, any creditor, or other party in interest, their respective attorneys or accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee, are as follows: David W. Ostrander, Chapter 7 Trustee of the Debtor, requested my services to market the real estate located at 897 Orchard Lane, Aspers, Pennsylvania (the “Property”).
5. I have not agreed to share with any person (except members of my firm) the compensation to be paid for the services rendered in this case, **unless a "co-broker" situation arises upon which the commission will be split with the broker producing the purchaser.**
6. I have not received a retainer in this case.
7. I shall amend this statement immediately upon my learning that (A) any of the within representations are incorrect or (B) there is any change of circumstance relating thereto.

8. I have reviewed the provisions of Rule 2016-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the District Of Massachusetts.

I declare under penalty of perjury that the foregoing is true and correct.

Exit Preferred Realty

Dated:

By: 

Jeffrey George, Broker
Exit Preferred Realty
1047 Lincoln Way
Chambersburg, PA 17201
T: (717) 729-6354

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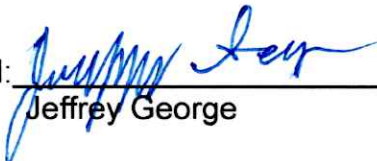
DECLARATION RE: ELECTRONIC FILING

I, Jeffrey George, hereby declare under penalty of perjury that all the information contained in my **AFFIDAVIT ON BEHALF OF EXIT PREFERRED REALTY** (the "Document"), filed electronically, is true and correct. I understand that this DECLARATION is to be filed with the Clerk of Court electronically concurrently with the electronic filing of the Document. I understand that failure to file this DECLARATION may cause the Document to be struck and any request contained or relying thereon to be denied, without further notice.

I further understand that pursuant to Massachusetts Electronic Filing Local Rule (MEFLR) –7(a) all paper documents containing original signatures executed under the penalties of perjury and filed electronically with the Court are the Property of the bankruptcy estate and shall be maintained by the authorized CM/ECF Registered User for a period of five (5) years after the closing of the case.

Dated:

Signed:



Jeffrey George

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**ORDER ON TRUSTEE'S MOTION TO EMPLOY BK GLOBAL REAL ESTATE
SERVICES AND RIGHT KEY REALTY, INC. AS REAL ESTATE BROKERS**

Upon consideration of the Chapter 7 Trustee's Motion To Employ BK Global Real Estate Services and Exit Preferred Realty As Real Estate Brokers, no adverse interests having been represented and sufficient reason appearing to me therefor, it is hereby

ORDERED that the Trustee's Motion To Employ BK Global Real Estate Services and Exit Preferred Realty As Brokers is allowed. All compensation and expenses will be subject to Court approval.

Honorable Elizabeth D. Katz
U.S. Bankruptcy Judge

Dated

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CERTIFICATE OF SERVICE

I, David W. Ostrander, do hereby certify that I served a copy of the Trustee's Motion To Employ BK Global Real Estate Services and Exit Preferred Realty As Real Estate Brokers on the following by mailing, first class, postage prepaid, except as otherwise indicated, on May 26, 2020:

Office of the U.S. Trustee (via ECF)	Robert Girvan, Esq. Counsel to Debtor (via ECF)
Jennifer Joubert, Esq. Andrew Canella, Esq. Bendett & McHugh, P.C. Counsel To RoundPoint Mortgage (via ECF)	Nicholas Dowd 392 Meadow Street Chicopee, MA 01013
Patrick Butler BK Global Real Estate Services (via email only)	Jeff George Exit Preferred Realty 1047 Lincoln Way Chambersburg, PA 17201 (via email only)

/s/ David W. Ostrander

David W. Ostrander

Ostrander Law Office

P.O. Box 1237

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E: david@ostranderlaw.com